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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,092	02/27/2001	Marcus Keep	30-200P	1549

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EXAMINER

MOHAMED, ABDEL A

ART UNIT	PAPER NUMBER
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1653

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/674,092

Applicant(s)

KEEP ET AL.

Examiner

Abdel A. Mohamed

Art Unit

1653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-10.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

*Christopher S. F. Low*  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1800

Continuation of 2. NOTE: It is noted that Applicant has amended claims 1, 3-6, 8 and 10 and have added claims 11 and 12. Applicant's remarks and 1.132 declaration filed 3/3/04 are considered as to the unamended claims and they are not persuasive because Applicant's arguments and the declaration are reflected to the proposed amendment rather than the rejected claims per se. Claim 1 as amended is changed from "at least 0.1% by weight of the total composition" to --from 0.1% to 90% by weight of the total composition--. In claims 3-6 and 8 the addition of "wherein said cyclosporin is present in an amount of from 0.1 to 90% by weight of the total composition". Also, in claim 6, the addition of various mode of administration, and in newly submitted claims 11 and 12, the addition of improved method for treating various diseases such as Alzheimer's, Parkinson's, HIV, etc. (claim 11), and a method for inducing systemic immunosuppression in patients (claim 12) by administering the pharmaceutical composition claimed. Thus, the claims as amended are very broad in scope because they are directed to a wide range of cyclosporine concentrations (i.e. from 0.1 to 90% by weight of the total composition) and to various mode of administrations and to various treatment of diseases and conditions which are not dealt with previously, and as such would require further consideration and search. Therefore, since the amendment and declaration filed 3/3/04 were not entered, for the reasons discussed above, all the previous rejections are maintained for the reasons of record.